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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,804	03/15/2004	John Tumacder	Zacharias-001	1611

7590  
John Tumacder  
#267  
4790 Caughlin Pkwy  
Reno, NV 89509

11/29/2006



EXAMINER
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RADA, ALEX P

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 11/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center"><b>Office Action Summary</b></p>	<b>Application No.</b> 10/800,804	<b>Applicant(s)</b> TUMACDER ET AL.	
	<b>Examiner</b> Alex P. Rada	<b>Art Unit</b> 3714	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 3/15/04.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)<br>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)<br>3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____<br>5) <input type="checkbox"/> Notice of Informal Patent Application<br>6) <input type="checkbox"/> Other: _____ |
|---|--|

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1 and 3 are rejected under 35 U.S.C. 102(e) as being anticipated by Moody (US 6,368,212).

Regarding claims 1 and 3, Moody discloses a five card keno comprising of a separate wager made on the poker game (col. 4, lines 1-11; where a player's wager is allocated to the poker hand portion of the game); a separate wager made on the card keno game (col. 4, lines 1-11; where a player's wager for the card keno game is the matching portion of the game of Moody); providing the means for the player to select and mark up to five cards from a displayed field of the entire deck of cards used in the poker game (col. 4, lines 21-32; where a player makes a selects five cards using a light pen or touch screen); dealing five cards out for the poker game (col. 4, lines 33-44; and awarding credits on the card keno game according to pre-established pay table based on the amount

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wager, the number of cards marked and the number of cards that were actually dealt out (col. 5, lines 27-55; where the awards based on the number of matched cards for the matching game is shown in table 2); and awarding credits according to pre-established pay table if the player has accurately predicted the card or cards dealt out to replace the discard discards (Table 1; where a table is shown for the poker hand ranking).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moody (US 6,368,212) in further view of Suan (US 6,149,157).

Regarding claim 2, Moody further discloses the player making a wager on the card keno game (col. 4, lines 1-11; where a player's wager for the card keno game is the matching portion of the game of Moody) and the claimed invention as discussed above but is silent with regards to the player selecting the cards to be discarded in the poker game; and the player selecting from the displayed field of cards the card or cards predicted to replace the discards and awarding credits according to a pre-established pay table.

Suan teaches a video poker game which allows the player to pick the cards to form a poker hand. All of the playing cards are lying face down. The player picks and turns over a predetermined number of cards to form an initial poker hand. The player then determines which of the selected

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cards to hold and if one or more of the selected playing cards are discarded, the player selects and turns over replacement playing cards from the remainder of the playing cards which are lying face down and evaluating the final poker for an award. By having a player selecting the cards to be discarded and the player selecting the replaced cards, one of ordinary skill in the art would provide a new poker game, which allows the player to be more interactive during play of the game.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Moody to include the player selecting the cards to be discarded in the poker game; and the player selecting from the displayed field of cards the card or cards predicted to replace the discards and awarding credits according to a pre-established pay table as taught by Suan to provide a new poker game, which allows the player to be more interactive during play of the game.

### ***Conclusion***

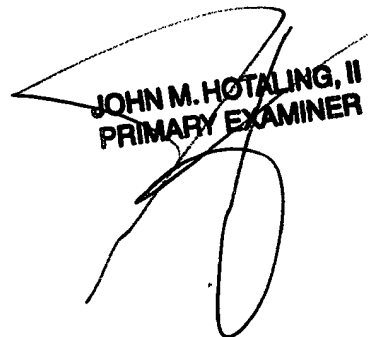
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alex P. Rada whose telephone number is 571-272-4452. The examiner can normally be reached on Monday - Friday, 08:00-16:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hotaling can be reached on 571-272-4437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AQ  
APR

  
JOHN M. HOTALING, II  
PRIMARY EXAMINER

<b>Notice of References Cited</b>	Application/Control No. 10/800,804	Applicant(s)/Patent Under Reexamination TUMACDER ET AL.	
	Examiner Alex P. Rada	Art Unit 3714	Page 1 of 1

**U.S. PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-6,149,157	11-2000	Suan, Marcus M.	273/292
*	B	US-6,368,212	04-2002	Moody, Ernest W.	463/13
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

**FOREIGN PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

**NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

Organization **IC3700 Bldg/Randolph**

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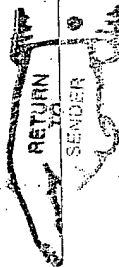
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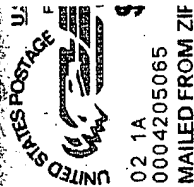
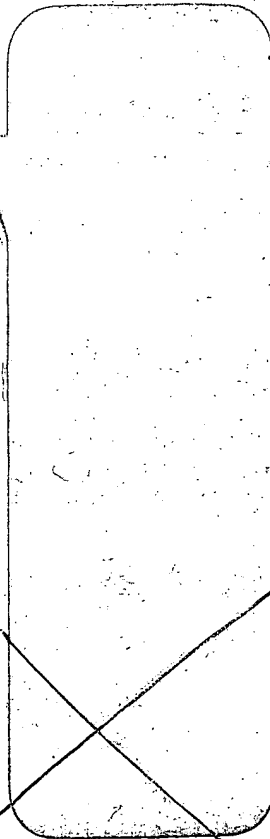
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